

## The Honorable Robert Lasnik

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BEREKET NUGUSSIE, an individual; PAUL ROMOLINO, and individual, and MOHAMED ABDI, an individual,

Case No. 2:16-CV-00268

v.  
Plaintiff,

HMS HOST NORTH AMERICA, a foreign business entity, and AUTOGRILL S.p.A, a foreign corporation,

**ORDER GRANTING PLAINTIFFS'  
MOTION FOR AWARD OF  
ATTORNEY'S FEES AND EXPENSES**

Defendant.

WHEREAS, Plaintiffs' have submitted authority and evidence supporting their Motion for Award of Attorney's Fees and Expenses; and

WHEREAS, the Court, having considered the pleadings on file and being fully advised, finds that good cause exists for entry of the Order below; now, therefore,

**IT IS HEREBY FOUND, ORDERED, ADJUDGED, AND DECREED THAT:**

1. Unless otherwise provided herein, all capitalized terms in this Order shall have the same meaning as set forth in the Plaintiff's Motion for Attorney's Fees and Expenses.

**ORDER GRANTING PLAINTIFFS' MOTION FOR AWARD  
OF ATTORNEY'S FEES AND EXPENSES - 1**

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1           2.     The Court having appointed Badgley Mullins Turner, PLLC and the Law Offices  
2     of Daniel Whitmore as Class Counsel.

3           3.     Class Counsel has requested the Court calculate their award using the  
4     percentage-of-the-fund method. Class Counsel request the Court award 15% of the common  
5     fund as attorney's fees and expenses (\$128,500.00)

6           4.     These requested attorney's fees and costs are fair and reasonable under RCW  
7     49.48.030 and the Ordinance ("SeaTac Municipal Code Chapter 7.45") based on the percentage-  
8     of-the-fund method. The Court reaches this conclusion after analyzing: (1) the results Class  
9     Counsel achieved; (2) Class Counsel's risk in this litigation; (3) the complexity of the issues  
10    presented; (4) the hours Class Counsel worked on the case; (5) Class Counsel's hourly rate; (6)  
11    the contingent nature of the fee; and (7) awards made in similar cases.

13           5.     Class Counsel has submitted authority and declarations to support the Court's  
14    lodestar cross-check.

15           6.     Class Counsel reasonably expended more than 217.3 hours on the investigation,  
16    preparation, filing, mediation, and settlement of Plaintiff's Claims. Their detailed time records  
17    are based on contemporaneous records of hours worked. Class Counsel exercised billing  
18    judgment and billed efficiently.

20           7.     Class Counsel's hourly rates - \$565.00 for Duncan Turner, \$495.00 for Daniel  
21    Whitmore, and \$310.00 for Mark Trivett – are reasonable hourly rates considering their  
22    individual "experience, skill, and reputation," *see Trevino v. Gates*, 99 F.3d 911, 924 (9th Cir.  
23    1996) and the prevailing market rates in this District. *See Blum v. Stenson*, 465 U.S. 886, 895  
24    (1984).

1           8. Applying these rates to the number of hours reasonable expended in litigation,  
2 Class Counsel's lodestar is approximately \$109,444.26. This lodestar reflects work and  
3 expenses that was reasonable and necessarily expended on the pursuing Plaintiffs' claims and  
4 that are estimated to occur in concluding the case. Plaintiffs' percentage-of-the-fund request  
5 represents a lodestar multiplier of 1.17.

6           9. Based on the risk Class Counsel faced in litigating the certified questions and the  
7 quality of the work they performed, this Court finds a lodestar multiplier of approximately 1.17  
8 is fair and reasonable.  
9

10          10. A lodestar multiplier is appropriate in this case based on the risk factor. See  
11 *Carlson v. Lake Chelan Cnty. Hosp.*, 116 Wn. App. 718, 742-43, 75 P.3d 533 (2003) (affirming  
12 application of 1.5 multiplier to lodestar); *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1052-54  
13 (9th Cir. 2002) (approving multiplier of 3.65); *Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780,  
14 783 (9th Cir. 2007) (approving multiplier of 6.85), *Craft v. Cnty. of San Bernardino*, 624 F.  
15 Supp. 2d 1113, 1125 (C.D. Cal. 2008) (approving multiplier of 5.2 and stating, "there is ample  
16 authority for such awards resulting in multipliers in this range or higher." Here, Plaintiffs  
17 pursued the action under a remedial Washington employment statute and a local minimum wage  
18 ordinance. Class Counsel pursued this action on a contingency fee basis and assumed the risk  
19 that if they were unsuccessful, they would receive no compensation for their work on the  
20 certified questions or settlement negotiations. This action involved novel and unresolved legal  
21 issues, and thus, the potential existed for a long and protracted litigation as the Court addressed  
22 its complexities.  
23

24          11. In addition, a lodestar multiplier is appropriate based on the quality of work  
25 performed by Class Counsel. Class Counsel performed high-quality work, resulting in an  
26

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1 extremely favorable collective settlement for Class Members. Class Members recovered the  
2 entirety of their owed wages arising under the Ordinance. This is an excellent result for the  
3 Class.

4       12. In the Settlement Agreement negotiated by Class Counsel and Defendant HMS  
5 Host in October 2017, Defendant HMS Host agreed to pay to Class Members \$840,000.00 to  
6 Class Members, inclusive of any attorney's fees and costs. This payment represents more than  
7 the total wages owed to Class Members. Defendant HMS Host also agreed to bear the costs of  
8 administration. Considering the probability of Class Members' potentially bringing individual  
9 actions for owed wages, the settlement negotiated by Class Counsel with Defendant HMS Host  
10 is a good outcome for Class Members. The litigation expenses and settlement notice and  
11 administration fees and costs incurred by Class Counsel were reasonable, necessary, and  
12 appropriately documented in the declarations filed by Class Counsel.

14       13. This Court also awards \$3,000.00 to each Plaintiff as an incentive award.

15       14. Based on the foregoing findings and analysis, the Court awards Class Counsel  
16 \$128,500.00 in attorney's fees and costs.  
17

19                   Dated this 22nd day of February, 2018.

21                   Robert S. Lasnik

22                   Robert S. Lasnik  
23                   United States District Judge  
24  
25  
26

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